

**Internal Revenue Service**

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-154868-01

Date:

July 1, 2002

In re:

**LEGEND**

Taxpayer =

Entity =

Tax years ended 1, 2, 3, 4 =

Individuals A, B and C =

External Tax Advisor =

Dear :

This replies to a letter dated September 14, 2001, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the agreement described in § 1.1503-2(g)(2)(i) with respect to each dual consolidated loss of Entity incurred in tax years ended 1, 2, 3, and 4 ("the agreements"). The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

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Individual A is the former Vice President of Taxes for Taxpayer and was involved in the preparation of Taxpayer's tax returns for the tax years ended 1 through 4. Individual B is a partner with External Tax Advisor and, together with his staff, were engaged to review Taxpayer's consolidated tax returns for the tax years ended 1 and 4. Individual C is a tax partner with External Tax Advisor and during June of        was asked by Taxpayer to assist in preparing a request for a closing agreement under § 1.1503-2(g)(2)(iv)(B)(2) with respect to the dual consolidated losses of Entity. The affidavits of Individuals A, B and C, and the facts submitted describe the circumstances that led to the failure to file the agreements. Taxpayer is requesting relief before the failure to attach the required agreements to Taxpayer's tax returns for the tax years at issue was discovered by the IRS.

Treas. Reg. § 301.9100 -1(b) provides that an election includes an application for relief in respect of tax, and defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in § 301.9100-3, to make a regulatory election under all subtitles of the Internal Revenue Code, except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

In the present situation, the agreement is a regulatory election as defined in § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 30 days from the date of this ruling letter to file the agreement described in § 1.1503-2(g)(2)(i) with respect to each dual consolidated loss of Entity incurred in tax years ended 1, 2, 3, and 4.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the agreements. § 301.9100-1(a). A copy of this ruling letter should be associated with the agreements.

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This ruling is directed only to the taxpayer who requested it. I.R.C. § 6110(k)(3) provides that it may not be used or cited as precedent.

No ruling has been requested, and none is expressed, as to the application of any other section of the Code or regulations to the facts presented.

Pursuant to a power of attorney on file in this office, a copy of the ruling letter is being furnished to Taxpayer and to the other authorized representative.

Sincerely,

/s/ Allen Goldstein  
Allen Goldstein  
Reviewer  
Office of the Associate Chief Counsel (International)